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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

In re Application of CALIFORNIA STATE  
TEACHERS' RETIREMENT SYSTEM for  
an Order Pursuant to 28 U.S.C. § 1782  
Granting Leave to Obtain Discovery for Use in  
a Foreign Proceeding.

Civil Action No.

**EX PARTE APPLICATION FOR AN ORDER PURSUANT  
TO 28 U.S.C. § 1782 GRANTING LEAVE TO OBTAIN  
DISCOVERY FOR USE IN A FOREIGN PROCEEDING**

Applicant California State Teachers' Retirement System ("CalSTRS" or "Applicant"), 100 Waterfront Place, West Sacramento, CA 95605, based upon the concurrently filed memorandum of law and supporting declaration, and pursuant to 28 U.S.C. § 1782, respectfully applies to this Court for an order authorizing it to serve a subpoena in the form of Exhibit A (the "Subpoena") for the production of documents by Volkswagen Group of America, Inc. ("VWoA," or "Respondent"), 300 Tice Boulevard # 10, Woodcliff Lake, NJ 07677. The Subpoena directs VWoA to produce documents for use in a foreign proceeding in Germany against Volkswagen AG, based on Volkswagen AG's failure to inform the market about its practice of installing and using "defeat device" software in millions of diesel vehicles it manufactured and sold in the U.S. and other world car markets.

This application meets the requirements of Section 1782. Applicant is an interested party in the German proceeding and seeks discovery for use in that proceeding. VWoA, which is incorporated in the State of New Jersey, can be found in this district. VWoA is not a participant in the German proceeding. Applicant is not using this application to circumvent the requirements of any foreign tribunal, and there is no indication that the German court will not be receptive to the discovery. Finally, the discovery sought is highly relevant to the contemplated proceeding and is neither unduly burdensome nor intrusive. *See Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 262-65 (2004).

Section 1782 applications are commonly received and granted *ex parte*, with any privilege issues raised and resolved through a motion to quash made after a subpoena has been authorized and issued. *See In re Owl Shipping, LLC*, 2014 WL 5320192, at \*1 & n.1 (D.N.J. Oct. 17, 2014) (granting *ex parte* application for discovery pursuant to Section 1782); *In re Ex Parte Application of Societe d'Etude de Realisation et d'Exploitation Pour le Traitement du Mais*,

2013 WL 6164435, at \*2 n.1 (E.D. Pa. Nov. 22, 2013) (“[I]t is neither uncommon nor improper for district courts to grant applications made pursuant to § 1782 *ex parte*.); *In re Mesa Power Grp. LLC*, 2012 WL 6060941, at \*4 (D.N.J. Nov. 20, 2012) (“[I]t is ‘appropriate for this Court to issue the order on an *ex parte* basis, without prejudice to the rights of the subpoenaed parties to file a motion to vacate or quash’ within thirty days of the issuance of this order.”); *accord* L. Civ. R. 27.1(a) (expressly permitting *ex parte* application for order to depose witness who may be found in district for use in judicial proceeding pending in foreign country).

WHEREFORE, Applicant respectfully requests that this Court enter an Order:

1. Approving Applicant’s application for discovery; and
2. Granting issuance of the Subpoena as it appears herein; and
3. Directing VWoA to produce the documents in its possession, custody, or control,

as requested in Schedule A of the Subpoena, by no later than \_\_\_\_\_.

Dated: July 13, 2016  
Newark, New Jersey

Respectfully submitted,

/s/ Frederick R. Kessler  
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